

**THE NATIONAL CITY BANK OF NEW YORK, PETITIONER, VS.
NATIONAL CITY BANK EMPLOYEES UNION,***G.R. No. L-6843. January 31, 1956*

Ponente: LABRADOR, J.

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This is a petition for certiorari against an order of the Court of Industrial Relations dated January 5, 1953, ordering the petitioner to readmit 51 employees and laborers in their former positions. On June 11, 1952 the employees of the petitioner went on strike and petitioner referred the matter to the Court of Industrial Relations. The court enjoined the strikers to return to work the following day, June 12, 1952, with the understanding "that should any worker or striker fail or refuse to return to work, the Bank through its management is hereby authorized to replace them." A trial of the question of the legality of the strike was held and thereafter the Court of Industrial Relations rendered a decision, dated January 5, 1953, declaring the strike illegal and ordering the dismissal of the leaders of the strike, but allowing for the return of the 51 employees that failed to return to work on June 12, 1952. Petitioner moved for reconsideration of this order, on the ground that the petitioner was not granted, opportunity to present evidence or confront the witnesses. An appeal to the court in banc was made, but the court affirmed the order. Hence, this petition.

The first ground upon which the invalidity of the order is assailed is the fact that the court itself had expressly authorized petitioner to hire new employees, in place of the strikers who did not return to work on June 12, 1952. The argument cannot stand if we, consider that the order for the replacement of the striking employees was a provisional order, which did not finally determine the right of the striking employees to go back to work or of the new recruits to continue therein as permanent employees. The order of replacement was an expedient to enable the petitioner to comply with its duties and functions, which were very closely related to the interests of the public. It needs no argument to show that in the very future of things the right of the striking employees to be readmitted to their old position was to depend upon the results of the litigation or the finding of the Court of Industrial Relations on the legality or illegality of the strike. On the other hand, the recruits as well as the Bank should have understood that their employment was temporary in nature, because it was only a provisional remedy calculated to minimize the injurious effects of the strike on the petitioner and its clients as well as on the public. Certainly no permanent right to the positions temporarily occupied could have been acquired by the recruits, or obligation on the part of the petitioner to retain them therein implied therefrom. The modification thereof by the decision of the court after trial, and, in accordance with the results thereof, must be held to be perfectly proper, just and legal.

The second ground relied upon in the petition, is the fact that an agent of the Court of Industrial Relations had made his own inquiries as to the reason why the strikers had not returned back to work, in spite of the order of the court, at which inquiries petitioner or its representative was not present and had no opportunity to cross-examine the persons investigated. In answer to this claim we note that the court found that the 51 employees ordered to be readmitted by the petitioner failed to report for duty on June 12, 1952, not because they did not desire to report for

work, but because they were unable to reach the premises of the petitioner because of the picketing then in existence and the threats, made against them by the pickets. This finding is based on various circumstances and evidence actually before the court, not on the inquiries alone.

"The failure of those employees who are still out of work to return on or before the deadline specified in the order of the Court dated June 11, 1952, was due to the picket line and the presence thereof of non-employees of the bank, which is not very easy to cross. In fact, from the bank's report itself we read "that number of other employees have advised the petitioner bank by telephone that they could not report for work because they have been threatened." (Report of the Bank dated June 13, 1952); that one A. Magpayo, who was reemployed, while on his way to the bank at Plaza Moraga, was assaulted allegedly by a striker named R. Silvestre and by an unidentified picketer who is said to be a member of the Federation of Free Workers who is not an employee of the bank on June 16, 1952) (Report of the bank dated June 16, 1952). Considering further that the time for the employees to report was barely twelve (12) actual working hours, from the hour of issue of the Interlocutory Order on June 11, to the deadline on 12, and that the order to replace is temporary, it was unnecessary to race with the time and expose themselves to danger. All these show that the failure of the employees to report on time was forced upon them by circumstances over which they have no control. Such failure to report on time, besides being excusable and reasonable, is merely a technical violation of the said Interlocutory Order."

The inquiries were made in the very premises of the petitioner at a time when the strike had just been declared, on the very day of the order for their return to duty. The petitioner cannot claim that the inquiries were made behind its back. The results of the inquiries were also so fresh that no opportunity for falsification could have arisen. Besides, the conclusion of the court was also based upon letters of the petitioner itself, which, like the report of the Bank, is admissible against the latter as an admission.

Lastly, the court is not supposed to be bound by the strict rules of evidence in the determination of facts. This is the express injunction contained in the law (Commonwealth Act No. 103, section 20) as to the form and manner in which it may arrive at the questions of fact in issue.

Failure to grant opportunity to petitioner to cross-examine the persons from whom inquiries were made is not a sufficient ground for the reversal of the order of the court and its findings. Petitioner has never claimed that the persons examined did not tell the truth, or that it has evidence to refute the court's findings that the 51 employees wanted to return to work but were impeded or prevented from doing so against their will. In its motion to reconsider the order subject of the petition, we find that no mention or claim of the falsity of the evidence gathered by the representative of the court, or that it had in its possession material evidence to disprove the findings. The import of petitioner's contention, therefore, is that it should be granted opportunity for a new trial to cross-examine the persons who were investigated by the representatives of the court for the sake of the right alone. But in the absence of an express allegation that a new hearing will change the facts found, the new trial or cross-examination demanded would be idle ceremony; it would not serve the ends of justice at all, especially so in a quasi-administrative body, like the Court of Industrial Relations, where the rules of confrontation and cross-examination have not been expressly granted as in a trial against an accused in a criminal case. Under the circumstances we find that the court cannot be said to have abused its discretion in setting aside its provisional order.

The petition is hereby denied, with costs against the petitioner.

Parás, C. J., Padilla, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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